

AMENDED IN ASSEMBLY APRIL 25, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2032**

**Introduced by Assembly Member Canciamilla**

February 15, 2002

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An act to amend Section 667.9 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2032, as amended, Canciamilla. Crime.

Existing law requires that a person who commits certain enumerated crimes against a member of a vulnerable group including persons over 65 years of age, the disabled, or children, receive a one-year sentence enhancement and requires that any person having a prior conviction for any of the enumerated offenses receive a 2-year sentence enhancement.

This bill would include any person who is convicted of ~~a felony for~~ attempting to commit those certain enumerated crimes against a member of a vulnerable group, as specified, in the above ~~prohibition and would require that any person who violates these provisions would instead receive a 3-year~~ sentence enhancement *and would require all sentence enhancements under these provisions* to be served in addition and consecutive to any other punishment. This bill would also add ~~commission, but not attempt to commit~~, assault and battery to the enumerated crimes subject to this sentence enhancement. By lengthening and increasing the scope of a sentence enhancement, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 667.9 of the Penal Code is amended to  
2 read:
- 3 667.9. (a) Any person who commits *or attempts to commit*  
4 *one or more of the crimes specified in subdivision (b), or who is*  
5 ~~convicted of a felony for attempting to commit one or more of~~  
6 ~~those crimes except subdivision (a) of Section 245 or subdivision~~  
7 ~~(d) of Section 243, (c),~~ against a person who is 65 years of age or  
8 older, or against a person who is blind, deaf, developmentally  
9 disabled, a paraplegic, or a quadriplegic, or against a person who  
10 is under the age of 14 years, and that disability or condition is  
11 known or reasonably should be known to the person committing  
12 the crime, shall receive a ~~three-year~~ *one-year* enhancement for  
13 each violation to be served in addition and consecutive to any other  
14 punishment he or she receives.
- 15 (b) ~~Subdivision (a) applies~~ *Any person who commits a violation*  
16 *of subdivision (a) and who has a prior conviction for any of the*  
17 *offenses specified in subdivision (c), shall receive a two-year*  
18 *enhancement for each violation in addition to the sentence*  
19 *provided under Section 667.*
- 20 (c) *Subdivisions (a) and (b) apply to the following crimes:*
- 21 (1) Mayhem, in violation of Section 203 or 205.
- 22 (2) Kidnapping, in violation of Section 207, 209, or 209.5.
- 23 (3) Robbery, in violation of Section 211.
- 24 (4) Carjacking, in violation of Section 215.
- 25 (5) Rape, in violation of paragraph (2) or (6) of subdivision (a)  
26 of Section 261.
- 27 (6) Spousal rape, in violation of paragraph (1) or (4) of  
28 subdivision (a) of Section 262.
- 29 (7) Rape, spousal rape, or sexual penetration in concert, in  
30 violation of Section 264.1.

(8) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(9) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

(10) Sexual penetration, in violation of subdivision (a) of Section 289.

(11) Burglary of the first degree, as defined in Section 460, in violation of Section 459.

(12) Assault, in violation of ~~subdivision (a) or paragraph (2) or (3) of subdivision (a), or in violation of subdivision (b)~~ of Section 245.

(13) Battery, in violation of subdivision (d) of Section 243.

~~(e)~~

(d) As used in this section, “developmentally disabled” means a severe, chronic disability of a person, which is all of the following:

(1) Attributable to a mental or physical impairment or a combination of mental and physical impairments.

(2) Likely to continue indefinitely.

(3) Results in substantial functional limitation in three or more of the following areas of life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

~~(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution of sentence be suspended for, any person punishable according to the provisions of this section.~~

~~(e) Notwithstanding Section 1385 or any other provision of law, the court may not strike an allegation under this section or a finding that would make an individual punishable as provided in this section.~~

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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